

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FEIGE WIEDER and JOEL WIEDER, :
individually and as parents and natural guardians :
of L.W., an infant under the age of 18 years, :
Plaintiffs, :
:

v. :

ADVANCED BIONICS CORPORATION, :
ADVANCED BIONICS LLC, and SONOVA :
USA INC., :
Defendants. :
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ORDER

22 CV 10759 (VB)

On March 3, 2023, the parties jointly moved for an order pursuant to SDNY Local Civil Rule 83.2 to dismiss this action without prejudice, as the parties wish to conduct settlement discussions outside of litigation and have executed an agreement which tolls statutes of limitation and similar time-based defenses. (Doc. #17). The same day, the Court entered an order directing counsel to submit for Court review: (i) a copy of the executed tolling agreement and (ii) an affidavit of plaintiff's counsel in support of the application for dismissal. (Doc. #18).

On March 8, 2023, counsel filed the agreement and Affirmation of Scott H. Seskin, and moved to seal those documents. (Docs. #19, 20). The Court permitted unredacted copies of the agreement and supporting affirmation to remain under seal, but directed the parties to file redacted copies on the public docket. (Doc. #21). Counsel filed the redacted documents the next day. (Doc. #22).

In reviewing the application for dismissal, including the confidential tolling and standstill agreement (Doc. #20-1) and Affirmation of Scott H. Seskin (Doc. #20), the Court has considered the following factors:

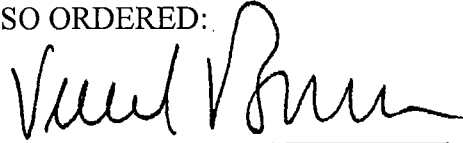
- (i) plaintiffs' claims, including those brought on behalf of the infant, would be dismissed without prejudice;
- (ii) plaintiffs are represented by counsel;
- (iii) plaintiffs' counsel negotiated several provisions in the agreement to protect plaintiffs' rights, including but not limited to tolling any statutes of limitation;
- (iv) the parents and natural guardians of the infant plaintiff wish to withdraw this action, without prejudice, to discuss a potential settlement of their own claims, and of their child's claims.

Based on the foregoing, the Court finds the agreement is fair and reasonable to the infant plaintiff. Therefore, the parties' joint application for an order dismissing this action without prejudice is GRANTED.

Accordingly, this case is dismissed without prejudice. The Clerk is instructed to terminate the pending motion (Doc. #17) and close this case.

Dated: March 14, 2023
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge